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UNCLAS SECTION 01 OF 04 MEXICO 000324

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SUBJECT: CONTESTED ELECTION BETWEEN TEXTILE UNIONS WILL
PROBABLY END IN PYRRHIC VICTORY

REF: 07 MEXICO 5639

1. SUMMARY: In late 2007 the labor authorities in the central Mexican state of Puebla organized an election to determine which of three competing textile unions would represent the workers at the Vaqueros Navarra blue jeans factory. The election followed months of negotiations, intense competition and often-credible allegations of threats and intimidation from the employer and from the three competing textile unions. Because of allegations of the systematic abuse of worker rights, the situation at the Vaqueros Navarra plant became the focus of attention of US labor unions, of numerous internationally known American clothing brands, as well as of NGOs from all three NAFTA countries. The election arranged by the Puebla,s labor authorities was held under conditions that were far from ideal and completely at odds with a well-organized international letter writing campaign. These factors notwithstanding, the election was consistent with standard (although often criticized) procedures under Mexican law. What was not standard in this case was the presences of a team of outside observers composed of representatives of Canadian and Mexican NGOs as well as Mission Mexico,s Labor Counselor. Ultimately, the union tacitly supported by the American brands won the election. Sadly, this victory will almost certainly be a pyrrhic one since in late December the factory & temporarily8 closed and then in mid January Vaqueros Navarra,s owners claimed a lack of new orders would force them to permanently close the plant. END SUMMARY.

BACKGROUND

2. In mid-2007 a pre-existing labor dispute at the Vaqueros Navarra blue jeans plant in the southern Mexican state of Puebla began to intensify. Vaqueros Navarra is one of 14 factories in Puebla owned by the Grupo Navarra, a major producer of denim for such US major brands as The GAP, Levi,s, American Eagle, Abercrombie & Fitch, Tommy Hilifger, Land,s End Old Navy and others. The origin of the dispute is a claim by the workers that the company failed to abide by the terms of a profit sharing agreement. In addition to the disagreement over profit-sharing, according to Verite, the independent non-profit organization which monitors international labor rights abuses in off-shore production sites, the NGO found credible evidence to indicate that the

company engaged in forced overtime, pregnancy testing, abusive treatment of workers, safety and health violations and numerous freedom of association issues.

13. Officially, the workers at the Puebla Vaqueros Navarra plant were represented by the CROC (Revolutionary Confederation of Workers and Peasants) labor union. The CROC is perhaps Mexico's third largest federation of labor unions. At the national level, the CROC is a labor organization with legitimate accomplishments in gaining and protecting worker rights but, like many institutions in Mexico and elsewhere, it has its bad elements. In the case of the Vaquero Navarra plant in question it appears the CROC all but ignores its responsibility to represent the interests of the members and largely left the workers to fend for themselves in their dealings with the company.

14. As the labor situation at Vaqueros Navarro deteriorated the workers began to look for new union representation and apparently settled on the September 19 Union. On July 10, the September 19 union, which is affiliated with the UNT (National Workers Union), Mexico's second largest national labor federation, filed with the Puebla state government labor authorities to serve as the workers representative. At roughly the same time another union the CROM (the Regional Confederation of Mexican Workers), appeared on the scene and petitioned the authorities for recognition as the workers representative. The CROM is perhaps Mexico's fourth largest national level labor federation.

INTERNATIONAL ATTENTION

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15. The September 19 union has very close ties with the Mexico City office of the AFL-CIO and most likely because of this the situation at the Vaqueros Navarra plant became the focus of considerable international attention. NGO's like the Maquila Solidarity Network in Canada and CEREAL (Center for Reflection and Labour Action) in Mexico also took up the cause and together organized a sustained letter writing campaign directed toward various levels of the state authorities in Puebla. The letters petitioned for the protection of labor rights for workers at Vaqueros Navarro and urged the authorities to promptly arrange for a secret ballot election at a neutral location so the workers could choose which of the three unions they wanted as their representatives. Most of the letters, including those from the offices of the American brands mentioned above, tacitly indicated a preference for the September 19 union. The US Department of Labor also received numerous inquiries about this case and therefore followed it closely.

(STATE) GOVERNMENT ACTION

16. As this case became the focus of international attention Mexican federal labor authorities hastily made clear that they had no jurisdiction in this matter and that it was up to the Puebla state government to deal with the Vaqueros Navarra situation. Over the course of a series of visits to Puebla Mission Mexico's Labor counselor had multiple meetings with the state's Secretary of Labor, Jose Antonio Lopez Malo, and senior members of his staff on the situation at the Vaqueros Navarra plant. The Puebla labor authorities were extremely open and appeared genuinely concerned with quickly reaching a negotiated settlement regarding which of the three competing unions would represent the workers at Vaqueros Navarra.

17. Notwithstanding the Puebla authorities, obvious desire to resolve the union representation question, it quickly became clear that they were equally (if not more) concerned

with scrupulously following the letter of Mexican Federal Labor Law regarding the where, when and how of the union elections. For example, as Mexican law does not require secret ballots in union elections, and two of the competing

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unions were strongly against them, the Puebla Secretary of Labor stated that he did not have the authority to impose this method of voting. The Secretary and his staff also insisted that Mexican law mandated that the election take place at the factory with representatives from the company and all three competing unions present as the workers casts their votes.

18. With regard to selecting union representation, Mexican Federal Labor Law allows the workers at any company to change unions at any time whenever a majority of those workers petition to do so. In theory, this petition process is relatively simple. In practice, changing from one union to another is a contentious process during which coercive methods can and often are used to influence workers, votes. Credible accounts of systematic intimidation by the company and two of the competing unions were presented to Mission Mexico,s Labor Counselor by current and recently fired Vaqueros Navarra workers during a trip to Puebla organized by a representative of the AFL-CIO,s Mexico City. During a subsequent visit to Puebla, Post,s Labor Counselor related these accounts to the state,s Labor Secretary, Lopez Malo, and his staff and received in return their assurances that once the election took place arrangements would be made to protect the workers and maintain the integrity of the union election.

THE WORKERS FINALLY VOTE

19. As a results of negotiations organized by Puebla,s labor authorities an agreement was reached to hold an election on November 23. A representative for the September 19 union and Secretary Lopez Malo himself contacted Mission Labor

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Counselor and requested that he serve as a part of a team of election observers. The other members of the team agreed to by all three unions were a representative from the Canadian

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based NGO Maquila Solidarity Network and one from the Mexican based NGO CEREAL.

110. The election itself was rigidly control by the Local Conciliation and Arbitration Board at the Vaqueros Navarra plant during normal working hours. The Board reports to Labor Secretary Lopez Malo,s office and he had clearly instructed them to be on their best behavior. His office also arranged for a detachment of state police to be present outside the factory to maintain order on election day. The election took place at an extremely deliberate pace and the workers were required to cast their ballots in front of their employers, the three competing unions, numerous Board officials and the Team of observers.

111. To the credit of Board and Secretary Lopez Malo, state authorities ensured that all workers present who were legally entitled to vote, even those who had been recently laid off or fired, were allowed to do so. Mexican law states that only those workers actually employed at the start of a labor dispute can participate in a union election. The law states that even workers subsequently fired are entitled to vote and the Board officials allowed some 20-30 recently fired workers to enter the factory and cast their ballots. This action occurred over the objections of the Vaqueros Navarra factory,s lawyer and the representatives of the CROM. The final election results were: September 19 Union) 263 votes; CROM) 178 votes; CROC) 3 votes.

¶12. Following the election post,s Labor Counselor met with the Board Officials and with some of the 178 workers who voted for the CROM. The Board officials explained that the results of the election would not be made official for at least a week and probably more. During that time any party in the election would be able to file formal objections and/or appeals regarding the election process. Lawyers for both the CROM and the September 19 Union left no doubt that they planned to see each other in (Labor) court. The CROC, which had been the official union of record, quietly accepted its defeat as gracefully as it could.

¶13. The legal arguments of the lawyers for the CROM and September 19 Union seemed fairly standard and great cause for being overly concerned. What was troubling however were Labor Counselor,s conversations with some of the workers who voted for the CROM. These workers repeatedly expressed their fears that the winning union would insist that they be fired. They also alleged that in the lead up to the election they had be threaten and verbally abused by members of the September 19 union. Labor Counselor encouraged the concerned workers and the CROM officials to immediately convey their fears and their version of events to the proper authorities. In a subsequent conversation with officials of the victorious September 19 union and the other members of the observer team Labor Counselor shared with them the concerns of the workers who voted for the CROM. The September 19 union categorically denied the allegation. However, the allegations and denials were no different than those made by them against the CROM and the CROC which were in turn categorically dismissed with equal vigor by post,s Labor Counselor specifically asked these two unions about the allegations.

¶14. In mid December Puebla,s labor authorities officially declared the September 19 union the winner of the Vaqueros Navarra election. This declaration was followed almost immediately thereafter by the mass resignation of the 178 workers who had voted for the CROM. These employees claimed they feared for their safety now that the September 19 union was the legal representative of the Vaqueros Navarra workers. At the same time, the entire Vaquero Navarra factory was temporarily8 closed for what was supposed to be several weeks while the company awaited new orders. When asked about this temporary closing by Mission Labor Counselor, the Vaquero Navarra factory,s lawyer replied that it was standard practice for the denim plant to close for about four weeks each year beginning in mid December. However, when the four weeks pasted Vaqueros Navarra,s owners announced that no new orders had come in and they would probably be forced

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to permanently close the factory.

COMMENT

¶15. It now seems clear that the September 19 union,s electoral triumph at the Vaqueros Navarra factory was a pyrrhic victory since it appears a certainty that the company will permanently close. There is no doubt that the September 19 Union was the preferred choice of the majority of the workers but their electoral victory was by no means a landslide and a large minority of workers preferred to have the CROM as their union representative. In the end the Vaqueros Navarra workers divided into two groups that were unable to cooperate with each other. This situation was then followed by an announcement by the company,s owners that a lack of new orders is forcing them to permanently close the factory.

¶16. It is not entirely clear that this announcement by the owners is true since a major US clothing brand contacted Mission Labor Counselor directly in December to ask about the situation at Vaqueros Navarra. The US brand did not specifically state an intention to send new orders to Vaqueros Navarra but clearly it was considering taking such an action. It is certainly possible that no new orders ever arrived at the Vaqueros Navarra plant and the company,s owners may have had no choice other than to close the factory. However, it is equally possible that they chose close the factory and send any new orders to one of their other businesses rather than deal with a sharply divided and then significantly reduced work force represented by a union they knew they could not control.

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